

Senate Study Bill 3238

SENATE FILE _____
BY (PROPOSED COMMITTEE ON
NATURAL RESOURCES AND
ENVIRONMENT BILL BY
CO-CHAIRPERSONS BLACK
AND HOUSER)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to animal feeding operations, by providing for
2 standards and evaluations by the department of natural
3 resources.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
5 TLSB 6536SC 81
6 da/je/5

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1 1 Section 1. Section 459.303, subsection 1, unnumbered
1 2 paragraph 1, Code 2005, is amended to read as follows:
1 3 The department shall approve or disapprove applications for
1 4 permits for the construction, including the expansion, of
1 5 confinement feeding operation structures, as provided by rules
1 6 adopted pursuant to this chapter. The department's decision
1 7 to approve or disapprove a permit for the construction of a
1 8 confinement feeding operation structure shall be based on
1 9 whether the application is submitted according to procedures
1 10 required by the department and the application meets standards
1 11 established by ~~the department~~ this chapter. A person shall
1 12 not begin construction of a confinement feeding operation
1 13 structure requiring a permit under this section, unless the
1 14 department first approves the person's application and issues
1 15 to the person a construction permit. The department shall
1 16 provide conditions for requiring when a person must obtain a
1 17 construction permit.
1 18 Sec. 2. Section 459.312, subsection 9, unnumbered
1 19 paragraph 1, Code 2005, is amended to read as follows:
1 20 The department shall approve or disapprove a manure
1 21 management plan according to standards established by this
1 22 chapter and procedures established by the department:
1 23 Sec. 3. NEW SECTION. 459.611 DEPARTMENTAL EVALUATION AND
1 24 ORDER.
1 25 1. The department may conduct an evaluation of a
1 26 confinement feeding operation that has commenced operation to
1 27 determine if any of the following apply:
1 28 a. Manure from the confinement feeding operation is being
1 29 discharged into a water of the state and the confinement
1 30 feeding operation is not providing for the applicable minimum
1 31 level of manure control as specified in section 459.311.
1 32 b. Manure from the confinement feeding operation is
1 33 causing or may reasonably be expected to cause pollution of a
1 34 water of the state.
1 35 c. Manure from the confinement feeding operation may
2 1 reasonably be expected to cause a violation of water quality
2 2 standards as provided in this chapter or chapter 455B.
2 3 2. The department may evaluate a confinement feeding
2 4 operation regardless of whether it is a small animal feeding
2 5 operation or includes a confinement feeding operation
2 6 structure which is constructed pursuant to a permit issued
2 7 pursuant to section 459.303.
2 8 3. The department shall not conduct an evaluation of a
2 9 confinement feeding operation which has not commenced
2 10 operation to determine if any of the conditions provided in
2 11 this section exist, unless the requirements of this chapter
2 12 are not met.
2 13 4. If based on the results of the evaluation the

2 14 department determines that a condition provided in this
2 15 section exists, the department may issue an order to a person
2 16 responsible for the operation of the confinement feeding
2 17 operation which has been evaluated. The order shall require
2 18 the person to institute remedial action necessary to eliminate
2 19 the condition.

2 20 Sec. 4. NEW SECTION. 459A.511 DEPARTMENTAL EVALUATION
2 21 AND ORDER.

2 22 1. The department may conduct an evaluation of an open
2 23 feedlot operation that has commenced operation to determine if
2 24 any of the following apply:

2 25 a. Open feedlot effluent from the open feedlot operation
2 26 is being discharged into a water of the state and the open
2 27 feedlot operation is not providing for the applicable minimum
2 28 level of open feedlot effluent control as provided in section
2 29 459A.401, 459A.402, or 459A.410.

2 30 b. Open feedlot effluent from the open feedlot operation
2 31 is causing or may reasonably be expected to cause pollution of
2 32 a water of the state.

2 33 c. Open feedlot effluent from the open feedlot operation
2 34 is causing or may reasonably be expected to cause a violation
2 35 of state water quality standards under this chapter or chapter
3 1 455B.

3 2 2. The department shall not conduct an evaluation of an
3 3 open feedlot operation which has not commenced operation to
3 4 determine if any of the conditions provided in this section
3 5 exist, unless the requirements of this chapter are not met.

3 6 3. If based on the results of the evaluation the
3 7 department determines that a condition provided in this
3 8 section exists, the department may issue an order to a person
3 9 responsible for the operation of the open feedlot operation
3 10 which has been evaluated. The order shall require the person
3 11 to institute remedial action necessary to eliminate the
3 12 condition.

3 13 EXPLANATION

3 14 This bill amends provisions in Code chapter 459, which
3 15 authorizes the department of natural resources to regulate
3 16 animal feeding operations, including confinement feeding
3 17 operations, and Code chapter 459A, which supplements those
3 18 provisions by authorizing the department to regulate open
3 19 feedlot operations.

3 20 Code section 459.303 provides for the approval or
3 21 disapproval of applications for permits to construct
3 22 confinement feeding operation structures (e.g., confinement
3 23 buildings, manure storage structures, and egg washwater
3 24 storage structures). The department's decision is in part
3 25 based on whether the application meets the standards
3 26 established by the department. The bill provides that the
3 27 application must meet standards established in the Code
3 28 chapter. See Code section 459A.205, which authorizes the
3 29 department to approve or disapprove applications for permits
3 30 to construct settled open feedlot effluent basins and
3 31 alternative technology systems associated with open feedlots
3 32 based on standards and procedures required in the chapter.

3 33 Code section 459.312 provides for the submission of manure
3 34 management plans to the department, including updated manure
3 35 management plans by an owner of a confinement feeding
4 1 operation or a person who applies manure from a confinement
4 2 feeding operation which is located in another state, if the
4 3 manure is applied on land located in this state. Generally, a
4 4 manure management plan must include information regarding how
4 5 much and where manure kept in a manure storage structure is to
4 6 be applied. The department must approve the manure management
4 7 plan according to procedures established by the department.
4 8 The bill provides that the application must meet standards
4 9 established in the Code chapter. See Code section 459A.208
4 10 requiring the department to approve nutrient management plans
4 11 according to procedures required by the department in
4 12 compliance with the provisions of that chapter.

4 13 The bill provides for additional provisions in both Code
4 14 chapters which authorize the department to conduct an
4 15 evaluation of a confinement feeding operation or an open
4 16 feedlot operation that has commenced operation in order to
4 17 determine if manure or open feedlot effluent is being
4 18 discharged into a water of the state or may reasonably be
4 19 expected to cause pollution of a water of the state. The
4 20 provisions are similar to administrative rules (567 IAC 65.5
4 21 and 567 IAC 65.103). In addition, the bill provides that the
4 22 department is prohibited from conducting an evaluation of a
4 23 confinement feeding operation or open feedlot operation which
4 24 has not commenced operation, unless a requirement provided in

4 25 Code chapter 459 or 459A has not been met. The bill provides
4 26 that based on the results of the evaluation, the department
4 27 may issue an order (as opposed to a notice as provided in the
4 28 rules) to a person responsible for the operation of the
4 29 confinement feeding operation or open feedlot operation which
4 30 has been evaluated in order to compel the person to institute
4 31 remedial action necessary to eliminate the condition.
4 32 LSB 6536SC 81
4 33 da:nh/je/5